

ENTERED

September 06, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

SANTIAGO CHANO, *et al*,

Plaintiffs,

VS.

CITY OF CORPUS CHRISTI,

Defendant.

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CIVIL ACTION NO. 2:17-CV-141

ORDER ADOPTING, AS MODIFIED, MEMORANDUM & RECOMMENDATION

Santiago Chano, Alex Elizondo, Mario de La Garza, and Juan G. Garza, individually, and on Behalf of Similarly Situated Individuals, brought this action against the City of Corpus Christi (the City), alleging violations of the Federal Fair Labor Standards Act for unpaid overtime wages. Before the Court is the parties' Second Amended Joint Motion to Approve Settlement. DE 104. On July 11, 2019, Magistrate Judge Jason B. Libby issued his Memorandum and Recommendation to Approve Settlement (M&R). DE 108. The City filed an objection on July 25, 2019. D.E. 109.

The City only objects to the M&R's finding of fact regarding the differing settlement amounts between named Plaintiffs and consent Plaintiffs. In reviewing whether the terms of the settlement are fair and reasonable, the M&R states that named Plaintiffs received a higher settlement amount in part because they had higher rates of pay as foremen. The City disputes this, arguing that two consent Plaintiffs also held the title of foreman.

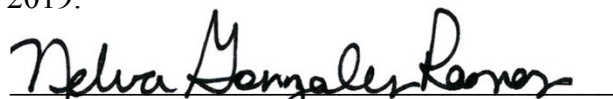
Rather, the disparity of the settlement amounts is due in part to the fact that only named Plaintiffs assert state law claims of declaratory judgment, breach of contract, quantum meruit, promissory estoppel, common law debt, and Texas Payday Law violations (D.E. 104, p. 4). Had Plaintiffs prevailed, the named Plaintiffs would have received higher damages for

1 / 2

their state claims. Therefore, the Court SUSTAINS the City's sole objection and MODIFIES the finding of fact in the M&R by replacing "each of the named Plaintiffs was a foreman who received a higher rate of pay than the consent Plaintiffs" (D.E. 108, p. 7) with "only named Plaintiffs have asserted state law claims."

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's M&R, as well as the City's objection, and all other relevant documents in the record, and having made a de novo disposition of the portions of the Magistrate Judge's M&R to which the objection was specifically directed, the Court SUSTAINS the objection, MODIFIES the findings of fact as set forth above, and ADOPTS as its own the findings and conclusions of the Magistrate Judge (D.E. 108). Accordingly, the Second Amended Joint Motion to Approve Settlement (D.E. 104) is GRANTED. The parties are ORDERED to file with this Court, on or before **November 12, 2019**, appropriate dismissal documents disposing of this action. Should the parties fail to timely file such documents with this Court, they are ORDERED to appear before this Court on **November 14, 2019 at 9:00 a.m.** to explain why they have failed to comply with this Order.

ORDERED this 6th day of September, 2019.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE